IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.1560 of 1985
Date of decision:7/5/2007

S.Gurdeep Singh Dhillon

…..Appellant

v.

The State of Punjab

…..Respondent

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE H.S.BHALLA

Present: Mr. RK Chhibber, Sr. Advocate with
Mr. Lalit Thakur, Advocate for the appellant.

Mr. AS Grewal, Addl.A.G.Punjab.
Mr. H.S.Sran, Advocate.

JUDGMENT:

This order will dispose of RFA Nos.1339, 1560 and 1586 of 1985 filed by Surjit Kaur, Gurdeep Singh Dhillon and Karanvir Singh respectively, land owners, for enhancement and RFA Nos.1634 to 1638 filed by the State of Punjab through Land Acquisition Collector, Punjab State Electricity Board, against enhancement of compensation.

Land measuring 85.30 acres situated within the revenue limits of Village Badungar was proposed to be acquired in pursuance of notification dated 18.10.1961 under section 4 of the Land Acquisition Act, 1894 (for short, 'the Act') for a public

purpose of construction of Staff Quarters for the employees of the Electricity Board. Notification under section 6 of the Act for acquisition of the land was issued on 20.1.1962. The Collector determined compensation for the acquired land vide award dated 2.9.1963 in four zones as under:-

Zone No.1	Rs.3000/- per bigha i.e. Rs.3/- per square yard.
Zone No.2	Rs.2500/- per bigha or Rs.2.50 per square yard.
Zone No.3	At the rate of Rs.1250/- per bigha i.e. Rs.1.25 p per square yard.
Zone No.4	Rs.500/- per bigha i.e. 0.50 p per square yard.

The land owners were not satisfied with the award and preferred references under section 18 of the Act. They made a claim for compensation at the rate of Rs.6/- per square yard. The reference court i.e. the District Judge, Patiala decided five references by a common order being:

1. LR No.64 of 1985 Amar Singh v. State
2. LR No.65 of 1985 Gurdeep Singh v. State
3. LR No.66 of 1985 Kishan Singh v. State
4. LR No.67 of 1985 Sohan Lal v. State
5. LR No.62 of 1985 Surjit Kaur v. State

The reference court awarded compensation at the rate of Rs.4/- per square yard or Rs.4000/- per bigha, apart from statutory solatium at the rate of 30% and interest @ 9% p.a from the date of

taking over the possession of the acquired land till the deposit of the amount and at the rate of 12% per annum under section 23(1A) of the Act. The instances relied upon on behalf of the land-owners have been compiled by the reference court in the following table:-

Sr.No.	***Ex.No.***	***Date of sale***	***Nature of document***	***Area sold***	***Revenue Extate***	***Price paid***	***Value per sq.yd.***
1	A/5	06/10/61	Sale deed	2B-2B	Badungar	Rs.9000/-	Rs.4.30p
2	A/6	06/10/61	Mutation	2B-2B	Badungar	Rs.9000/-	Rs.4.30p
3	A/7	22.12.59	Sale-deed	136 sq.yds.	Badungar	Rs.850/-	Rs.6.00p
4	A/8	04/10/63	-do-	1083 “	Badungar	Rs.5940/-	Rs.5.50p
5	A/9	10/09/63	-do-	2022 “	Badungar	Rs.9000/-	Rs.4.50p
6	A/10	21.8.82	-do-	2133-1/3”	Badungar	Rs.11000/-	Rs.5.15p
7	A/12	02/11/49	Sale-deed	125 sq.yds.	Badungar	Rs.700/-	Rs.5.60 sq.yds.
8	A/15	21.5.62	Mutation	12B-19 biswas	Badungar	Rs.44617 .50	Rs.3.45 p s.yd.
9	A/16	15.9.62	Mutation	158-18 “	Badungar	Rs.51548 .75 p	Rs.3.55p
10	A/18	06/02/62	Mutation	5 bighas	Badungar	Rs.14375/-	Rs.2.88p

Other documents which were relied upon were found to be of no relevance. The reference court analysed the instances relied upon on behalf of the claimants and found all the instances except agreements to sell dated 30.4.1963 Exhibits A2 and A3 to be of not much relevance. It was found that sale deed Ex.A5 did not give any area because the same related to a different Village Lehal. Other instances were neither of the acquired land nor of the adjoining land except Ex.A7, which related to Model Town, Patiala. Exhibits A8 to A10, A12, A15,A16 and A18 were not found to be comparable. Value of land depicted in sale deed Ex.A7

dated 22.12.1959 was Rs.5/- per square yard and in agreements Exhibits A2 and A3, value shown was Rs.6/- per square yard. Taking into account the fact that the plots of land involved therein were small, the court assessed the value to be Rs.4/- per square yard for the acquired land. The transactions were otherwise found to be relevant having regard to the potential of land which was to be converted into urban property.

We have heard learned counsel for the parties.

Neither learned counsel for the State nor learned counsel for the claimants could show any error in the determination of market value.

We have perused the record and we find that determination of market value by the reference court is fair and reasonable. The date of notification under section 4 is 18.10.1961. The area acquired is 85.30 acres. The Collector awarded compensation ranging from 0.50 Paise per square yard to Rs.3/- per square yard. The burden of proving that market value was higher was on the claimants. The evidence which they have led shows the price to be ranging from Rs.2.88 per square yard to Rs.6/- per square yard. Having regard to the size of plots, covered by the instances relied upon, there is no option but to hold that the fair value of the land on the date of notification under section 4 of the Act will be Rs.4/- per square yard.

Principles for determining market value of the acquired land are well-settled. Reference may be made to judgments reported in **Narayan Gajapati Raju v. Revenue Divisional Officer**, AIR 1939 PC 98, **Special Land Acquisition Officer v. Adinarayana Setty**, AIR 1959 SC 429, **Tribeni Devi v. Collector of Ranchi,** AIR 1972 SC 1417, **Dollar Co., Madras v. Collector of Madras,** AIR 1975 SC 1670, **Smt.Kaushalya Devi Bogra v. Land Acquisition Officer, Aurangabad,** AIR 1984 SC 892, **Padma Uppal v. State of Punjab**, AIR 1977 SC 580, **Prithvi Raj v. State of MP,** AIR 1977 SC 1560, **Chimanlal Hargovinddas v. Special Land Acquisition Officer, Poona,** AIR 1988 SC 1652, **Periyar & Pareekanni Rubbers Limited v. State of Kerala,** AIR 1990 SC 2192, **Viluben Jhalejar Contractor v. State of Gujarat**, AIR 2005 SC 2214 and **Union of India v. Pramod Gupta and others**, 2005(12) SCC 1.

Crux of the principles laid down in the judgments referred to above, can be summarised thus: Market value has to be determined on the facts of each case. Market value is the value which a willing vendor expects from a willing purchaser. Bonafide transaction of land possessing similar advantages furnishes evidence of expectation of a willing vendor from a willing purchaser. Where instance relied upon

relates to a small piece of land and value is to be determined for a big chunk of land, reasonable deduction will have to be made. Some amount of guess work is inevitable in determining market value.

Applying the above principles, determination of market value by the reference court at Rs.4/- per square yard on the date of notification under section 4 of the Act is fair and reasonable and neither calls for further enhancement nor for reduction.

The claimants will be entitled to interest and solatium as per amended provision of the Act. However, the date of award of the Collector being prior to 30.4.1982, they will not be entitled to additional compensation of 12% per annum from the date of notification under section 4 of the Act till the date of the award of the Collector or taking of possession, whichever is earlier under section 23(1A) of the Act, in view of law laid down by Constitution Bench of the Hon'ble Supreme Court in **KS Paripoornan v. State of Kerala,** (1994) 5 SCC 593.

The appeals are disposed of accordingly.

(Adarsh Kumar Goel)
Judge

May 7, 2007 (H.S.Bhalla)
'gs' Judge